

**REMARKS**

Applicant submits that the Notice of Non-Compliant Amendment was issued in error, and the Examiner who issued the Notice expressly agreed to withdraw the Notice in statements to Applicant's representative. But Applicant submits this response because he has not received formal confirmation that the Notice has been withdrawn. Applicant has authorized charging a deposit account, but believes that no charge is due, as explained below. If no charge is due, Applicant requests a refund.

The subject matter of this patent application was acknowledged to be patentable in a Notice Of Allowance dated March 9, 2004. Applicant timely filed an RCE request on June 9, 2004, that contained only an Information Disclosure Statement disclosing the existence of and prosecution documents of a pending application having similar subject matter.

Even though the RCE request did not contain an amendment and in fact did not list the claims (which we understand is acceptable practice), on April 19, 2005, Legal Instruments Examiner Porter issued a Notice of Non-Compliant Amendment on the grounds that each claim had not been identified with the proper status identifier. Applicant believes that the RCE request was proper. And, based on August 1 and August 2, 2005, discussions between Ms. Melissa McCullin of the my office and LIE Porter, Applicant believed that the issue was resolved and the patent office would retract or withdraw the Notice of Non-Compliant Amendment. PAIR indicates that the case was docketed to Examiner Mar on August 1, 2005, which we interpreted as confirming that the Notice of Non-Compliant Amendment was withdrawn.

Applicant believes that nothing is required of him on this case based on the verbal statements by LIE Porter, but we have not received formal notification that the Notice of Non-Compliant Amendment was withdrawn. Because we have been unable to confirm from the patent office what — if anything — should be done, we herein submit a copy of the

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**PATENT**

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claims exactly as they existed on the date of our last response, but the claims that were amended in the last response are now presented as "previously presented."

#### CONCLUSION

Applicant believes that the Notice of Non-Compliant Amendment was improper and has relied on statements made by the issuing LIE confirming that the Notice would be withdrawn. Accordingly, Applicant believes that the Notice is no longer pending and the case is progressing in its examination. However, if Applicant is incorrect in his belief, Applicant provides this office communication as a good faith attempt to fully respond to the Notice of Non-Compliant Amendment.

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